

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058(B)
INDIANAPOLIS, IN 46204
PHONE (317) 232-3777
FAX (317) 974-1629

TO: County Commissioners, County Councilmembers, Cities and Towns, and Township Trustees

FROM: Wesley R. Bennett, Commissioner

RE: New Legislation regarding Fire Protection District Boundaries and Municipal Annexations

DATE: June 17, 2019

This memorandum addresses changes made to Indiana law regarding fire protection districts as a result of Senate Enrolled Act 603-2019 ("SEA 603"), signed by Governor Holcomb on May 5, 2019. This memorandum is merely for informational purposes and is not a substitute for reading the law.

Specifically, SEA 603 amends IC 36-4-3-7 and IC 36-8-11-22 to address two situations where a municipality annexes into the service area of a fire protection district. These changes are effective July 1, 2019.

First, for a district established after July 1, 1987 (rather than June 14, 1987, under current law), territory added to an existing fire protection district is considered a part of the district as of the date that the district was originally established. For such a district, except in the case described below, a municipality that annexes into the fire protection district's boundaries must provide fire protection services within ten (10) days after the second January 1 that follows (1) the effective date of the annexation ordinance; and (2) the filing and recording of the annexation ordinance pursuant to IC 36-4-3-22(a). This also affects the applicability of the liability of the municipality for the district's indebtedness incurred prior to the annexation.

For example, a city is located in a township that is part of a fire protection district. The district was established after July 1, 1987. After SEA 603 goes into effect, the city annexes an unincorporated part of the township that is served by the district. The city must begin to provide fire protection services into the annexed area within the timeframe specified by law.

Second, for a district with a total net assessed value (as determined by the county auditor) of more than one billion dollars (\$1,000,000,000) on the date an annexation ordinance is adopted:

- (1) The area annexed by the municipality remains a part of the fire protection district's service area once the annexation takes effect, and the fire protection district shall continue to provide fire protection services to the annexed area.
- (2) The municipality may not tax the annexed territory for fire protection services. Instead, the municipality shall establish a special fire fund for all fire protection services that are

provided by the municipality within the municipal boundaries that do not overlap with the fire protection district.

- (3) The part of the fire protection district's boundaries that are within the annexed area of the municipality will become a special taxing district.
- (4) The municipality is not required to provide fire protection services to the annexed area.

The Department of Local Government Finance ("Department") understands the county auditor's action to be the certification of net assessed values ("CNAV") pursuant to IC 6-1.1-17-1. Therefore, a determination whether a fire protection district and a municipal annexation are subject to SEA 603 would be based on the most recent CNAV. The Department also believes the term "special taxing district," defined by IC 36-1-2-18 to mean a geographic area where a tax is levied for local improvements that are not political or governmental in nature, nevertheless signifies that the fire protection district and not the municipality will impose a levy for fire protection services in the annexed area.

For example, a city is located in a township that is part of a fire protection district. The district is not a cross-county unit. The county auditor certified on August 1 a CNAV for the district at over \$1,000,000,000. On September 1, the city adopts an ordinance to annex an unincorporated part of the township, which is also served by the fire protection district. Because the district's CNAV is over \$1,000,000,000 as of September 1, the annexed area becomes a special taxing district and will continue to be served by the fire protection district. The city may provide fire protection services to the annexed area, but may not impose a tax in the annexed area for those services. The city must also create its own special fire fund for a levy only within the area of the city not served by the district.

Contact Information

Questions may be directed to David Marusarz, Deputy General Counsel, at (317) 233-6770 or dmarusarz@dlgf.in.gov.